

On April 24, 1941, the United States attorney for the District of Maryland filed a libel against 524 cases, each containing 24 cans, of sauerkraut at Baltimore, Md., alleging that the article had been shipped in interstate commerce from Philadelphia, Pa., on or about January 28, 1941, by Union Premier Food Stores and that it remained in interstate commerce on the premises of A. J. Harris, Baltimore, Md.; and charging that it was misbranded in that the statement "Fancy Quality" was false and misleading as applied to an article that was not Fancy because of off-color, odor, and flavor. It was labeled in part: "Net weight 1 lb. 11 oz."

On May 15, 1941, A. J. Harris & Co., Baltimore, Md., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of the Food and Drug Administration.

2000. Misbranding of canned succotash. U. S. v. 66 Cases of Canned Succotash. Default decree of condemnation and destruction. (F. D. C. No. 4211. Sample No. 47427-E.)

This product was represented to be of Fancy quality, but examination disclosed that it was made from corn and lima beans both of which were too mature to warrant such designation.

On April 4, 1941, the United States attorney for the Northern District of Illinois filed a libel against 66 cases, each containing 36 cans, of succotash at Chicago, Ill., alleging that the article had been shipped by the Marshall Canning Co. from Marshalltown, Iowa, on or about January 10, 1941; and charging that it was misbranded. It was labeled in part: "Uncle William Fancy Succotash * * * Contents 1 Lb. 1 Oz."

The article was alleged to be misbranded in that the statements "Prepared From Fancy Fresh Green Baby Lima Beans" and "Prepared From Green Lima Beans and Golden Bantam Corn" and the term "Fancy" were false and misleading as applied to an article that was yellow corn, but not Golden Bantam, and mixed green and white lima beans which were too old to qualify as Fancy.

On May 13, 1941, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

TOMATOES AND TOMATO PRODUCTS

2001. Adulteration of canned tomatoes and tomato puree. U. S. v. Associated Canneries, Inc. Plea of guilty. Fine, \$28. (F. D. C. No. 2939. Sample Nos. 97237-D, 6427-E, 6428-E, 13123-E.)

On July 23, 1941, the United States attorney for the District of Utah filed an information against Associated Canneries, Inc., a corporation, Ogden, Utah, alleging that on or about September 27 and December 29, 1939, and January 26, 1940, the defendant delivered for introduction in interstate commerce into the States of Colorado and Washington quantities of tomato puree which was adulterated and that on or about February 12, 1940, the defendant introduced and delivered for introduction in interstate commerce into the State of Colorado, a quantity of canned tomatoes which were adulterated. The canned tomatoes were unlabeled but were invoiced as "Rusty Tomatoes." The tomato puree was labeled in part: (Cans) "6 Pounds 8 Ounces Roundup Brand * * * Fancy Whole Tomato Puree Packed for Roundup Grocery Co. Spokane Washington"; (cases) "6 No. 10 cans Tomato Puree Ogden, Utah"; or "6 No. 10 cans Perfection Brand Tomato Puree H. D. Olson & Sons Ogden—Utah."

The articles were alleged to be adulterated in that they consisted in whole or in part of decomposed substances.

On August 9, 1941, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$25 on the first count and \$1 on each additional count, totaling \$28.

2002. Adulteration of tomato catsup and tomato puree. U. S. v. Perry Canning Co. Plea of guilty. Fine, \$52. (F. D. C. No. 4185. Sample Nos. 6764-E, 44636-E, 44649-E.)

On September 8, 1941, the United States attorney for the District of Utah filed an information against the Perry Canning Co., a corporation at Perry, Utah, alleging introduction and delivery for introduction in interstate commerce on or about September 23 and October 9, 1940, from the State of Utah into the States of Idaho and Colorado of quantities of tomato catsup and tomato puree that were adulterated in that they consisted in whole or in part of decomposed substances. They were labeled in part: "Golden 'A' Brand Extra Standard

Quality Tomato Catsup"; or "Gateway Brand Tomato Puree * * * 6 lb. 8 Ozs."

On September 27, 1941, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50 on the first count and \$2 on the second, totaling \$52.

2003. Misbranding of tomato catsup. U. S. v. Pleasant Grove Canning Co. Plea of guilty. Fine, \$25. (F. D. C. No. 4158. Sample Nos. 6284-E, 6285-E.)

The product involved in this case was found to be short of the declared weight.

On July 15, 1941, the United States attorney for the District of Utah filed an information against Pleasant Grove Canning Co., a corporation, Pleasant Grove, Utah, alleging shipment on or about March 1, 1940, from the State of Utah into the State of Kansas, of a quantity of tomato catsup that was misbranded. It was labeled in part: "Pleasant Grove Brand * * * Tomato Catsup."

The article was alleged to be misbranded in that the statement "14 Ozs. Net Weight," appearing on the bottle label, was false and misleading since each of the bottles did not contain 14 ounces of said article but did contain a smaller amount; and in that it was in package form and did not bear a label containing an accurate statement of the quantity of contents in terms of weight or measure.

On July 15, 1941, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$25.

2004. Adulteration of tomato catsup. U. S. v. Seiters, Inc., and Edgar A. Seiter. Tried to the court. Judgment of guilty. Corporation fined \$4; Edgar A. Seiter fined \$100. (F. D. C. No. 2907. Sample Nos. 13129-E, 13158-E, 13166-E, 13177-E, 26231-E.)

This product contained excessive mold indicating the presence of decomposed material.

On February 21, 1941, the United States attorney for the District of Idaho filed an information against Seiters, Inc., Post Falls, Idaho, and Edgar A. Seiter, alleging shipment within the period from on or about November 8, 1939, to on or about March 3, 1940, from the State of Idaho into the State of Washington, of quantities of tomato catsup which was adulterated. The article was labeled in part variously: "Syringa Brand Tomato Catsup"; "Coeur D'Alene * * * Tomato Catsup"; "Tastewell * * * Tomato Catsup * * * National Retailer-Owned Grocers, Inc. Distributors"; or "Pheasant Tomato Catsup * * * Distributed by Wadhams & Company, Portland, Oregon."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance.

On May 29, 1941, the defendants having entered pleas of not guilty, and having waived trial by jury, the case came on for trial before the court. Both defendants were adjudged guilty, and the corporation was fined \$1 on each of the four counts of the information and Edgar A. Seiter was fined \$25 on each of the same four counts.

2005. Adulteration and misbranding of canned tomatoes with puree from trimmings. U. S. v. 170 Cases and 25 Cases of Canned Tomatoes with Puree from Trimmings. Default decrees of condemnation and destruction. (F. D. C. Nos. 3547, 4198. Sample Nos. 55216-E, 55782-E.)

Examination showed that one lot of this product contained worms and worm and insect fragments. The labels of both lots failed to bear the common name of the optional ingredient, viz, "Added Strained Residual Tomato Material from Preparation for Canning." Furthermore, both lots fell below the standard of quality for canned tomatoes because the drained weight was less than 50 percent of the water required to fill the container.

On or about December 19, 1940, and April 7, 1941, the United States attorneys for the Western District of Washington and the Northern District of California filed libels against 170 cases, each containing 24 cans, of tomatoes with puree from trimmings at Tacoma, Wash., and 25 cases, each containing 24 cans, of the same product at Weed, Calif., alleging that the article had been shipped on or about September 10 and November 30, 1940, by Bagley Canning Co. from Ashland, Oreg.; and charging that a portion was adulterated and that both lots were misbranded. It was labeled in part: "Bagley's Rogue River Valley Tomatoes With Puree From Trimmings Net Contents 1 Lb. 3 Oz."

The portion of the article seized at Weed, Calif., was alleged to be adulterated in that it consisted wholly or in part of a filthy substance.